IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6525 of 2007
Date of decision: January 30, 2009.

Ram Kishan

...**Petitioner(s)**

v.

State of Haryana & Ors.

...**Respondent(s)**

CORAM:**HON'BLE MR. JUSTICE SURYA KANT**

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Shri R.C. Kapoor, Advocate for the petitioner.

Shri R.D. Sharma, Deputy Advocate General, Haryana for respondents No.1 to 5.

ORDER

Surya Kant, J. - (Oral):

The petitioner seeks a direction to respondents No.1 to 5 for closure of the respondent No.6 – school, allegedly being run by respondent No.7 against the provisions of Haryana School Education Rules, 2003 and/or the Punjab Scheduled Roads and Controlled Area (Restriction of Unregulated Development) Act, 1963.

Notice of motion was issued and in response thereto, respondents No.1 to 4 as well as respondent No.5 have filed their respective counter affidavits. No reply, however, has been filed by the private respondents despite sufficient opportunities given in the past.

It emerges from the pleadings and the material on record that respondent No.6 – school was established in the year 1995 over a piece of land measuring 2 kanals. While the school premises has access from the public passage, it is surrounded by the petitioner's agricultural lands on three sides. The petitioner's grievance is that in the absence of a four-wall and for want of sufficient open space with the school authorities, the children/students often play in the agricultural fields of the petitioner, thereby causing substantial damage to the standing crops.

Learned State Counsel, on the other hand, submits that the school was established in the year 1995 and after declaring as 'controlled area' on 29.5.1997, the District Town Planner has already taken action and has issued notice to the school management calling upon it to restore the land to its original condition. It further appears that even when the school management does not possess sufficient land to provide basic amenities like play grounds for the students of a High School, temporary affiliation/accreditation has been granted to the school by the Education Department, Haryana from time to time.

After hearing Learned Counsel for the parties at some length and on perusal of the material on record, I am of the considered view that some corrective steps are required to be taken by the respondent-authorities within a time-bound manner. Respondents No.6 to 10 cannot be permitted to run the school either illegally or detriment to the standing crops of the

petitioner.

Consequently, this writ petition is disposed of with the following directions:-

(i) the Deputy Commissioner and the District Town Planner, Yamuna Nagar are directed to conclude the pending action against respondent No.6 or other respondents in a time-bound manner and in accordance with law, within a period of four months from the date of receipt of a certified copy of this order;

(ii) in case the authorities hold that the school is liable to be closed down and/or the land is required to be restored to its original condition, the petitioner would obviously be left with no grievance;

(iii) if for any valid reason the authorities are of the view that the school is entitled to run, in that event and within a period of two months from the date of taking such a decision, there shall be a direction to respondents No.6 to 10 to construct a four-wall with a height of not less than seven feet around the school premises with access from the passage/public road only so that no student is allowed to enter the agricultural fields of the petitioner and cause damage to the crops.

(iv) In case respondents No.6 to 10 fail to comply with the aforesaid direction, the official respondents are directed to close down the school.

January 30, 2009. [**Surya Kant**]
kadyan **Judge**